

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

Criminal No. 1:05cr23-4

LATASHA LINEAR,
Defendant.

ORDER/OPINION

On the 8th day of February 2007, came the defendant, Latasha Linear, in person and by her counsel, Brian J. Kornbrath, and also came the United States by its Assistant United States Attorney, Zelda E. Wesley, pursuant to a Petition for Warrant of Summons for Offender Under Supervision filed in this case on January 30, 2007, alleging:

- 1) Violation of Mandatory Condition: While on probation, the defendant shall not commit another federal, state or local crime. The defendant shall not illegally possess a controlled substance. On or about June 12, 2006, Ms. Linear was arrested by the Three Rivers Task Force, Fairmont, West Virginia, for two counts of distributing marijuana. On January 5, 2007, Ms. Linear plead guilty in the Marion County Circuit Court to Count One, Case No. 06-F-127, charging her with Delivery of a Controlled Substance Within One Thousand Feet of a School. The defendant was sentence on January 5, 2007 to 3 years Probation. . . .
- 2) Violation of Special Condition: The defendant shall participate in a program of testing, counseling and treatment for the use of alcohol or drugs if so ordered by the Probation Officer. The defendant failed to report for drug testing on December 16, 2006 and January 6, 2007

Defendant's Supervising United States Probation Officer Vincent T. Zummo also noted two previous reports had been submitted to the Court regarding alleged violations by Defendant,

including an April 27, 2006, report regarding a positive test for and admission to using and sharing marijuana; and a June 23, 2006, report regarding the arrest which is the basis of the current Petition.

Prior to the taking of evidence, counsel for Defendant waived the preliminary hearing, conceding probable cause existed to forward this revocation matter to Chief United States District Judge Irene M. Keeley for hearing and disposition.

The Court then explained the charges contained in the Petition and the effect of the proposed waiver to Defendant and inquired of her as to the voluntariness of her decision to waive the preliminary hearing. From the colloquy between the Court and the defendant, the Court concluded Defendant's decision to waive the preliminary hearing was knowingly and voluntarily made.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated the Conditions of her Supervised Release as alleged in the Petition for Warrant or Summons for Offender Under Supervision filed January 30, 2007.

It is therefore **ORDERED** that the defendant be bound over for a full hearing before the Honorable Irene M. Keeley, Chief United States District Judge for the Northern District of West Virginia on the violations alleged in the Petition for Warrant or Summons for Offender Under Supervision filed on January 30, 2007.

Defendant then moved the Court to permit her to remain on release at her mother's residence, either under telephonic or electronic monitoring, pending further proceedings before the Court. The Government had no objection to Defendant's release with electronic monitoring. For reasons stated on the record, Defendant's motion is **GRANTED** pending the Probation Officer's investigation of Defendant's mother's residence for suitability, and Defendant's mother signing that she agrees to act as Defendant's third-party custodian. All other conditions of the Conditions of Supervised

Release entered in this case remain in full force and effect.

The Clerk of the court is directed to send a copy of this order to counsel of record.

DATED: February 9, 2007.

/s *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE